APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,971	03/30/2004	Matthias Kaiser	34874-280	2997

64280   7590   08/20/2008
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ATTN: PATENT INTAKE CUSTOMER NO. 64280
ONE FINANCIAL CENTER
BOSTON, MA 02111

EXAMINER
BROOKS, MATTHEW L

ART UNIT	PAPER NUMBER
3629	

MAIL DATE	DELIVERY MODE
08/20/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/811,971	KAISER, MATTHIAS
	Examiner	Art Unit	
	Matthew L. Brooks	3629	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 March 2004</u>.
2a)☐ This action is **FINAL**.　　　2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
　　closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-30</u> is/are pending in the application.
　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-30</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　a)☐ All　b)☐ Some *　c)☐ None of:
　　　　1.☐ Certified copies of the priority documents have been received.
　　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.
　　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
　　　　　　application from the International Bureau (PCT Rule 17.2(a)).
　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112 1ˢᵗ

1.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2.   Claims 1-30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

3.   With respect to **claim 1 and 15 and 30** the claims do not enable the system to perform properly as to how a deviation from the baseline actually correlates to a satisfaction value. Deviation from a baseline value may often times mean that the customer was satisfied, and not dissatisfied. The problem becomes quiet clear when one looks at claim 3 for example where a penalty is assessed for every loop (deviation) when often time a loop could actually require a reward. The system and specification as claimed does not address this difficulty caused by the indefinite claim.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims 3, 4,18,19 are rejected under 35 U.S.C. 112, second paragraph, as failing

to set forth the subject matter which applicant(s) regard as their invention.

6.   With respect to **claim 3 and 18** (a) it is indefinite why determine loop when this

has already been done in claim 1 (b) when a deviation from a baseline is determined.

Evidence of this is clearly found on page 13 where loop is defined as deviation from

script. Script later is assigned value and is also actually the baseline.

7.   With respect to **claims 4 and 19** (a) it is indefinite as to what a "user session" is?

For purpose of examination it will be equivalent to "monitored interaction".

8.   With respect to claim 15 it is indefinite as to what a "link" is? For now claim 15 is

being interpreted as identical to that of claim 1.

Claim Rejections - 35 USC § 102

9.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public
> use or on sale in this country, more than one year prior to the date of application for patent in the United
> States.

10.   **Claims 1-30** are rejected under 35 U.S.C. 102(b) as being anticipated by Pub

WO 03/009175 A1, (Nice) and its supporting documents used to show inherency an

evidence packet "Nice" pdf's 1-6.

11.   With respect to **claims 1 and 15**: Nice teaches

A method for detecting user satisfaction, comprising:

       a. monitoring an interaction between a user and a computer (Fig 6, 122

Interaction capture and storage and pg 8 line 8-9 pre processing of interactions

previously captured);

       b. comparing the monitored interaction with a baseline value to determine a

deviation from baseline (page 21, 10-15 call flow analysis, AND pg 8, lines 25-30,

"calibration device whereby the calibration of the appropriate configuration is customer

or market segment tailored" AND "then providing and indication as to the result of the

rule check" - pg 9, line 5 AND pg 13, lines 10-15 "the interactions captured can be

associated there…with information already present in … knowledge base" AND pg 13,

lines 20-25 "Recent dynamic *changes* in the environments… for a system to… analyze"

in order to analyze changes the system must look at the normal workflow found within

knowledge base then calculate the deviation from the standard AND then on page 21,

10-15 is finally applied in a call flow analysis AND then pg 32, lines 10-13 "…analyzing

the segments via the use of several parallel functions.." one of these is seen on pg 35,

lines 10-15 – where "…each frame is calculated and then compared to an adaptive

threshold…" this comparison alone is determination a deviation); and

using the deviation to determine a value for user satisfaction (pg 14, lines 10-15;
"any indications of irregularity/(deviations from the base) will alert the management that
the bad practice occurred AND Fig 11 532 and 534 statistics and reports).

12.   With respect to **claims 16 and 30**: Nice teaches a user satisfaction detection
system, comprising:

       a. means for monitoring an interaction between a user and a computer (Fig 11,
508 and Fig 6, 122 Interaction capture and storage AND pg 17, lines 1-10); and

       b. means for comparing the monitored interaction with a baseline value to
determine a deviation from baseline and use the deviation to determine a value for user
satisfaction (Fig 11, 506 ANALYZE AND pg 17, lines 1-10 rule based analysis engine,
looks at rules and deviation from them in order to analyze).

13.   With respect to **claims 2 and 17**: Nice teaches, wherein monitoring includes
generating a user interaction log describing at least one interaction between a user and
a computer (Fig 11, 514).

14.   With respect to **claims 3 and 18**: Nice teaches, wherein comparing further
includes: determining loops (deviation from script) in the user interaction log; and
assessing a penalty for every loop in the user interaction log (alert management
equivalent to penalty see pg 14, lines 10-15; "any indications of irregularity/(deviations
from the base) will alert the management that the bad practice occurred AND Fig 11
532 and 534 statistics and reports fig 2B where it is compared to knowledge base then
rule engine Fig 4).

15.   With respect to **claims 4 and 19**: Nice teaches, wherein generating the user interaction log includes: retrieving a user session with an application; parsing the user session for action sequences; preparing the user interaction log; and storing the user interaction log (pg 14, line 15-20 "NiceLog" AND Fig 2B raw data to ineraction meta data).

16.   With respect to **claims 5 and 20**: Nice teaches, wherein monitoring includes identifying an application script based on an interaction included in the user interaction log (Fib 2B).

17.   With respect to **claims 6, 7 and 21, 22**: Nice teaches, wherein identifying the application script includes identifying an application script with an action sequence and assign value (Fig 9, pages 26-29 and 32).

18.   With respect to **claims 8 and 23**: Nice teaches, wherein the application script is created by: defining action sequences; assigning a utility value to each action sequence; developing a script of action sequences for an application; and storing the script (Fig 2A, knowledgebase has script that has threshold values then compared using 300 rule base engine).

19.   With respect to **claims 9 and 24**: Nice teaches, wherein the application script corresponds to expert user actions (Fig 2A Initial set up).

20.   With respect to **claims 10 and 25**: Nice teaches, 10. The method of claim 5, wherein comparing includes comparing the user interaction log to the identified application script (Fig 2B 218 rule based analysis engine and pages 26-29 and 32).

21.   With respect to **claims 11 and 26**: Nice teaches, wherein using the deviation includes determining a deviation index representing a deviation between the user interaction log and the application script (Fig 2B 218 rule based analysis engine and pages 26-29 and 32).

22.   With respect to **claims 12 and 27**: Nice teaches, wherein using the deviation includes correlating the deviation index to a user satisfaction level (Fig 2B 218 rule based analysis engine and pages 26-29 and 32).

23.   With respect to **claims 13 and 28**: Nice teaches, further including assessing the value of the interaction to determine the deviation (Fig 2B 218 rule based analysis engine and pages 26-29 and 32).

With respect to **claims 14 and 29**: Nice teaches, wherein comparing includes assessing a severity of difference between the monitored interaction and the baseline value to determine the deviation (Fig 2B 218 rule based analysis engine and pages 26-29 and 32).

Conclusion

24.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. i.) 5,808,908 – teaches that all the standards of deviation in loop and sequence analysis was known to those of ordinary skill.

        Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew L. Brooks whose telephone number is (571) 272-8112. The examiner can normally be reached on Monday - Friday; 8 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MLB
8/15/2008

/John G. Weiss/

Supervisory Patent Examiner, Art Unit 3629